

MAY 11 2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DOUGLAS R. MANNING,

Plaintiff,

v.

VIRGINIA DEPT. OF CORRECTIONS,
ET AL.,

Defendant(s).

) CASE NO. 7:17CV00103
)
)

) MEMORANDUM OPINION
)
)

) By: Glen E. Conrad
) Chief United States District Judge
)

Douglas R. Manning, a Virginia inmate proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983, alleging that he has had difficulties in prison in obtaining legal research materials and sending legal mail to the courts. Upon review of the record, the court finds that Manning's claims against two defendants he has named must be summarily dismissed.

The court is required to dismiss any action or claim filed by a prisoner against a governmental entity or officer if the court determines the action or claim is frivolous, malicious, or fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915A(b)(1). Manning has no legal basis for § 1983 claims against the Virginia Department of Corrections ("VDOC") or Dillwyn Correctional Center. "[N]either a State nor its officials acting in their official capacities are 'persons' under § 1983," and this rule also applies "governmental entities that are considered 'arms of the State' for Eleventh Amendment purposes." Will v. Michigan Dep't of State Police, 491 U.S. 58, 70-71 (1989). Because the VDOC and the prison are properly considered arms of the Commonwealth of Virginia, they cannot be sued under § 1983. Therefore, the court will summarily dismiss as frivolous Manning's constitutional claims against these two defendants. An appropriate order will enter this day.

Warden Larry T. Edmonds is a person subject to suit under § 1983, and Manning may continue with his § 1983 claims against this defendant at this time. By separate order, the court will direct the clerk to attempt service of process on the warden.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to plaintiff.

ENTER: This 11th day of May, 2017.



Chief United States District Judge